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5 **Attorney for Plaintiff**

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7 UNITED STATES BANKRUPTCY COURT

8 NORTHERN DISTRICT OF CALIFORNIA  
9

10 IN RE 818 GREEN STREET, DEBTOR

Case No.: 14-42286

11  
12 ADVERSARY PROCEEDING

13 FEDERAL RULE OF BANKRUPTCY  
14 PROCEDURE 7001 (2)

15 MARTIN LEE ENG

16 Plaintiff,

17 vs.

18 818 GREEN STREET LLC

19 DEFENDANT

20 **COMPLAINT**

21 **INTRODUCTION**

22 1. Plaintiff brings this action to formally object to an asset listed by 818 Green Street LLC  
23 as owned by them and therefore as part of the bankruptcy estate and to require removal of this asset  
24 from the bankruptcy estate of 818 Green Street LLC.

25 2. Plaintiff bases this objection on the fraudulent transfer by Harry Nguyen of the property –  
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ADVERSARY COMPLAINT – ENG v. 818 GREEN STREET LLC

1 known as 818-820 Green Street, San Francisco, CA 94108 from Pioneer 74 Lots, LLC to 818 Green  
2 Street LLC on May 23, 2014.

3  
4 **PARTIES AND JURISDICTION**

5  
6 3. Plaintiff Martin Lee Eng is the sole owner of Pioneer 74 Lots, LLC, which holds a 75%  
7 ownership interest in the property known as 818-820 Green Street, San Francisco, CA. Martin Lee  
8 Eng individually holds the remaining 25% interest in the subject property.

9 4. Defendant 818 Green Street LLC is a California Limited Liability company located at  
10 1433 7<sup>th</sup> Avenue, San Francisco, CA 94122 Defendant is the Debtor in the pending Chapter 11  
11 Bankruptcy Case No. 14-42286 in the Northern District of California (Oakland).

12 5. The relief sought by the complaint generally affects the assets claimed by the Debtor  
13 included in the estate and therefore is a core proceeding with the meaning of 28 USC §157 (b)(2)  
14 (H) and to the extent that this proceeding involves any non-core matters, the Plaintiff hereby  
15 consents to the entry of final orders by the Bankruptcy Judge.

16 **FACTUAL BACKGROUND**

17 6. Martin Eng ("ENG") acquired title to the property located at 818-820 Green  
18 Street, San Francisco, CA 94133 ("818 GREEN PROPERTY") through a deed recorded on  
19 September 12, 2005, 2005 (See Exhibit A, Eng Grant Deed) as record number 2005.1027706 in the  
20 Official Records, San Francisco County, CA.

21 7. On February 9, 2009, ENG transferred title of 818 GREEN PROPERTY to Pioneer 74 Lots  
22 LLC ("PIONEER") (See Exhibit B, 2009 Eng Deed to Pioneer) through a deed recorded on  
23 February 6, 2009 as record number 2009.717005 in the Official Records, San Francisco County,  
24 CA.

25 8. The 818 GREEN PROPERTY was re-conveyed to ENG on October 4, 2013 through a deed  
26 recorded on October 4, 2013, as record number 2013.766874 in the Official Records, San Francisco  
27 County, CA. (See Exhibit C, 2013 Pioneer Deed to Eng) ENG then re-conveyed a 75% interest in



1 the 818 GREEN PROPERTY back to PIONEER on the same date through a deed recorded on  
2 October 4, 2013 as record number 766876 in the Official Records, San Francisco County, CA.  
3 The remaining 25% interest was conveyed to a third party in 2013, but was re-conveyed back to  
4 ENG on April 25, 2014 through a deed recorded as record number 870528 in the Official Records,  
5 San Francisco County, CA.

6 9. On May 23, 2014, 818 Green Street LLC ("818 GREEN LLC") recorded a grant deed in the  
7 official records of San Francisco County, CA, attempting to transfer 818 GREEN PROPERTY to  
8 the 818 GREEN LLC. (See Exhibit D, 2013 Forged Green Street Deed to Eng) The signature of  
9 ENG, the Managing Owner of PIONEER was forged on this document. The recording was  
10 requested by Harry Nguyen, a party unknown to ENG.

11 10. On May 26, 2014, 818 GREEN LLC filed a Chapter 11 Voluntary Petition for bankruptcy.  
12 In schedule A – Real Property of that petition, the 818 GREEN PROPERTY was listed as an asset  
13 of 818 GREEN LLC.

14 **FIRST CLAIM FOR RELIEF**  
15 **VIOLATION OF USC §548 – FRAUDULENT TRANSFER**

16 11. Plaintiff re-alleges and incorporates by reference all of the preceding paragraphs as though  
17 fully set forth herein.

18 12. Under Section 548 of the United States Bankruptcy Code, a fraudulent transfer exists when a  
19 debtor makes a transfer or incurs an obligation with actual intent to hinder, delay or defraud any  
20 creditor. While in most cases this involves a transfer of an asset to avoid inclusion in the  
21 bankruptcy estate, in this case the Debtor fraudulently transferred an asset that it did not own INTO  
22 the bankruptcy estate to provide the means to satisfy Debtor's creditors.

23 13. The legal title to the 818 GREEN PROPERTY is held as follows: 75% by PIONEER and  
24 25% by ENG.

25 14. On May 23, 2014, Harry Nguyen recorded a Grant Deed in an attempt to transfer a 100%  
26 interest in the 818 GREEN PROPERTY from PIONEER to 818 GREEN LLC. The grant deed was

1 purportedly signed by ENG as managing member of PIONEER. However, the signature on this  
2 document was forged, and was not signed by ENG.

3 15. Plaintiff contends that this Grant Deed is fraudulent, and therefore void, and that title to the  
4 818 GREEN PROPERTY remains with PIONEER and ENG.

5 16. On May 26, 2014, 818 GREEN LLC filed a Chapter 11 Voluntary Petition and listed the  
6 818 GREEN PROPERTY as an asset of the Debtor in an attempt to defraud the Court and the  
7 creditors

8 17. Plaintiff requests that the 818 GREEN PROPERTY be removed from the bankruptcy estate  
9 of the Debtor.

10 **SECOND CLAIM FOR RELIEF**  
11 **FRBP 7001(9) – DECLARATORY JUDGMENT**

12 18. Plaintiff re-alleges and incorporates by reference all of the preceding paragraphs as though  
13 fully set forth herein.

14 19. An actual controversy has arisen and now exists between Plaintiff and Defendant concerning  
15 their respective rights and duties in that Plaintiff contends that he is the owner of the 818 GREEN  
16 PROPERTY, whereas Defendant disputes this contention and contends that it is the owner of the  
17 818 GREEN PROPERTY and that such property should be included in the bankruptcy estate of 818  
18 GREEN LLC.

19 20. Plaintiff desires a judicial determination of Plaintiffs rights and a declaration as to the  
20 ownership of the 818 GREEN PROPERTY

21 21. A judicial declaration is necessary and appropriate at this time under the circumstances in  
22 order that Plaintiff may ascertain the right of Defendant to include the 818 GREEN PROPERTY in  
23 the bankruptcy estate of Defendant. Plaintiff is in danger of having his property sold by the  
24 bankruptcy trustee, and Defendant has created a cloud on Plaintiffs title to the 818 GREEN  
25 PROPERTY.



**THIRD CLAIM FOR RELIEF**  
**CANCELLATION OF INSTRUMENTS**

22. Plaintiff re-alleges and incorporates by reference all of the preceding paragraphs as though fully set forth herein.

23. A written instrument that purports to be a Grant Deed executed by ENG on behalf of PIONEER transferring title to the 818 GREEN PROPERTY to 818 GREEN LLC exists as is of record in the Official Records of San Francisco County, CA as instrument number 2014.887317.

24. This instrument, although apparently valid on its face, is void in that the signature of ENG on behalf of PIONEER has been forged and is fraudulent.

25. Plaintiff alleges that Defendants do not have the ability to verify that the subject document was signed by ENG on behalf of PIONEER.

26. In order to serve justice and protect the ownership rights of Plaintiff in the 818 GREEN PROPERTY, Plaintiff requests that the Court determine that the Grant Deed is void and order its cancellation.

**PRAYER FOR RELIEF**

Wherefore, Plaintiff prays for judgment against Defendant as follows:

1. For a removal of the 818 GREEN PROPERTY from the bankruptcy estate of Defendant.
2. For a declaration that Defendant has no ownership interest in the 818 GREEN PROPERTY
3. For a cancellation of the Grant Deed transferring ownership of the 818 GREEN PROPERTY from PIONEER to Defendant.

Dated this 30<sup>th</sup> of July, 2014.

Respectfully Submitted,

/s/ Jonathan Matthews

**Jonathan Mathews, Attorney for Plaintiff**

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